IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO. 2156 OF 2006

Smt.Sheelwati Vasudeo Oka..... ... Petitioner.

Versus

Mrs.Jatanbai Jethamal Khivsara & Anr....Respondents.

Mr.Sandeep V. Marne for the Petitioner.
Mr. N. P. Shimpi for the Respondents.

CORAM : B.H.MARLAPALLE, J.

DATED : 20TH APRIL, 2007.

P.C.:

Heard learned Counsel appearing for the petitioner.

2. Old Regular Civil Suit No. 504 of 1991 (New Regular Civil Suit No. 554 of 1993) which was filed for seeking decree of eviction on the ground of arrears of rent and acquiring suitable alternate accommodation, came to be dismissed by the learned 4th Joint Civil Judge, Senior Division, Pune, and therefore, the plaintiffs filed Civil Appeal No. 525 of 2004 which came to be partly allowed by the learned 13th Adhoc Additional District Judge, Pune, vide his judgment and order dated 9th January, 2006. By the

lower appellate court order the suit was partly decreed and the defendant was directed to handover vacant and peaceful possession of the suit premises to the plaintiff within three months.

3. In this writ petition the decree passed by the lower appellate court under the Bombay Rents Hotels & Lodging House Rates (Control) Act is challenged. In Writ Petition No. 4138 of 2006, I have already taken a view vide order dated 24th August, 2006 that such decree can be challenged by filing a civil revision application under Section 115 of the Code of Civil Procedure. I have further observed that when such a statutory remedy is available, a writ petition under Article 227 of the Constitution of India need not be entertained.

4. Hence, the writ petition is disposed of as such with liberty to the petitioner to file a civil revision application and if such a civil revision application is filed within a period of four weeks from today, the period of pendency of this writ petition be taken into consideration for condonation of delay, if any.

5. The status quo order granted earlier will continue

to operate for a period of two weeks more from today.

6. Annexures to the petition memo be returned, if applied for.

7. Writ petition is disposed of, accordingly.

Sd/-

(B. H. MARLAPALLE, J.)